IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE NINETEENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

And

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT APPEAL NO : 1636 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 14/10/2004 in WP NO : 16731 OF 2004 on the file of the High Court.)

Between:

K.M.Safiullah, s/o.Late. K.M.Rahmatuallah,
R/o.Ramnagar, Ananthapur, Ananthapur Dist.

..... APPELLANT

AND

1. The Govt. of A.P., Minorities Welfare Dept., rep.by its Prl.Secretary,

Secretariat Buildings, Hyderabad.

2 A.P.State Wakf Board rep.by its Chief Executive officer, Hyderabad.

.....RESPONDENTS

Counsel for the Appellant: MR.S.NIRANJAN REDDY

Counsel for the Respondent: THE ADVOCATE GENERAL

The Court made the following:

ORAL JUDGMENT: (per BSSR.J.)

This Writ Appeal is directed against the order dated 14.10.2004 passed by the learned single Judge in WVMP.No.2944 of 2004 in WPMP.No.21859 of 2004 in Writ Petition No.16731 of 2004.

2. The appellant herein is one of the elected members of the 2nd respondent-A.P. Wakf Board (for short the Board). When the notice has been issued to him as to why the Board cannot be superseded, questioning the said notice, he filed Writ Petition No.16731 of 2004. The learned single Judge granted an interim stay and subsequently the 2nd respondent filed vacate stay petition. The learned single Judge, on considering the material on record and on hearing the counsel for both parties, dismissed the stay petition and allowed the vacate stay petition WVMP.No.2944 of 2004 by an order dated 14.10.2004. Assailing the said order, the petitioner in the Writ Petition has filed this Writ Appeal.

3. The learned counsel appearing for the appellant submits that the 2nd respondent has no power to issue such a show cause notice. His further submission is that since the notice has not been sent to all the elected members of the Board, the show cause notice suffers from serious infirmity on this ground. His last submission is notice issued to some of the members without serving a notice on the Board is not valid and the same is liable to be set aside. In support of his submissions, he placed reliance on the decisions reported in H.E.M.

UNION vs. STATE OF BIHAR[1] and DAMAN SINGH AND OTHERS ETC. VS. STATE OF PUNJAB[2].

4. As seen from the records, the appellant herein challenged the show cause notice in his individual capacity. Had the Board come up with a Writ Petition, there could be some substance in the contentions of the learned counsel appearing for the appellant. The learned single Judge on thorough consideration of the material brought on record thought it fit not to continue the interim stay and thereby vacated the stay order. We do not see any valid reasons to interfere with the impugned order.

5. Accordingly the Writ Appeal is dismissed at the admission stage. However, time for submitting explanation to the appellant herein is extended for two (02) more weeks.

(K.C.BHANU, J.)

19th October, 2004.

(B.SESHASAYANA REDDY, J.)

SSR

Copy to

1.The Principal Secretary, Govt. of Andhra Pradesh,

Minorities Welfare Department, Secretariat Buildings,

Hyderabad.

2 The learned Advocate General, High Court of A.P.

3.2 CD copies.